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EXAMINER

COLLINS, GIOVANNA M

ART UNIT PAPER NUMBER

3679

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant No.

09/771,119

Applicant(s)

MONSON, BRANT

Examiner

Giovanna M. Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 and 33-35 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Claim Objections

1. Applicant is advised that should claims 6-10 be found allowable, claims 12-16 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

In claim 10, line 2 "longing pin" should be changed to - - locking pin - -.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8,9 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitations "the locking pin" in line 3 and "the handle" in line 4. There is insufficient antecedent basis for these limitations in the claim, as these limitations are not previously recited in claim 8 or claims 6 and 1 from which claim 8 depend.

Claim 9 recites the limitations "the locking pin" in line 3 "the handle" in line 4. There is insufficient antecedent basis for these limitations in the claim, as these limitations are not previously recited in claim 9 or claims 6 and 1 from which claim 9 depend.

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Claim 11 recites the limitation "the handle" in line 3. There is insufficient antecedent basis for this limitation in the claim, as this limitation is not previously recited in claim 11 or claims 6 and 1 from which claim 11 depend.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 1, 6-7 and 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Melander ('785).

Melander discloses (see Figs. 3 and 5) a quick release system for mounting a backrest on a motorcycle, the system comprising a side bracket plate (11) having a first notch (36) extending inwardly generally horizontally from an end of the side bracket plate, and a second notch (see 32) extending generally upwardly into the side bracket plate from a bottom thereof, the first and second notches being configured to receive a bolt head; a slidable retaining means (38) mounted to the side bracket plate for selectively allowing movement of a bolt head into the second notch.

Referring to claim 6, Melander discloses a locking means (42).

Referring to claim 7, Melander discloses the locking means (42) comprises a locking pin.

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Referring to claim 12, Melander discloses a locking means (42) for selectively preventing movement of the slidable retaining means (38).

Referring to claim 13, Melander discloses the locking means (42) comprises a locking pin.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5, 17-19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gogan et al. ('232) in view of Meng (734).

Gogan et al. disclose (see Figs. 2 and 9) a quick release system for mounting a backrest on a motorcycle, the system comprising a side bracket plate (26) having a first notch (see Fig. 8 at 48) extending inwardly generally horizontally from an end of the side bracket plate, and a second notch (see Fig. 1, at 50) extending generally upwardly into the side bracket plate from a bottom thereof, the first and second notches being configured to receive a bolt head. Gogan does disclose a retaining means (56) mounted to the side bracket plate for selectively allowing movement of a bolt head into the second notch but does not disclose that it is slidable. Meng teaches (see Fig. 2) a slidable retaining means (33) that mounted to a side bracket plate (16) for selectively allowing movement of a bolt head into a second notch (at 21). Retaining pins are a

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well known method of retaining tubular members in a bracket. Therefore it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Gogan et al. to have the slidable retaining means taught by Meng because retaining pins are a well known method for retaining tubular members in a bracket.

Referring to claim 2, Meng teaches at least one semi-circular grommet (at 21) disposed along one of the notches.

Referring to claim 3, Meng teaches wherein the slidable retaining means (33) comprises a retaining pin (33) slidable between a first position, wherein the pin prevents movement of a bolt head out of a second notch, and a second position, wherein the retaining pin does not prevent movement of a bolt head and out of the second notch.

Referring to claim 4, Meng teaches wherein the retaining pin (33) is biased into the first position (see col. 2, lines 19-22).

Referring to claim 5, Meng teaches a handle (34) attached to the retaining pin such that movement of the handle away from a second notch moves the retaining pin (33) from the first position to a second position.

Referring to claim 17, Gogan et al. disclose at least one bolt (20), the bolt having a bolt head with a generally annular channel formed therein (see fig. 3, at 21), the bolt head being configured for nesting in the second notch.

Referring to claim 18, Gogan et al. disclose two bolts (at 20 and at 18) each having a generally annular channel formed therein and each being configured for nesting in one of the first and second notches.

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Referring to claim 19, Gogan et al., as modified, discloses the quick release system according to claim 17 but does not disclose wherein the bolt head further comprising a second annular channel. However, duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Therefore it would be obvious to one skilled in the art at the time of the invention to further modified the release system disclosed by Gogan et al. to have a second annular channel on the bolt head because duplicating the components of a prior art device is a design consideration within the skill of the art.

Referring to claim 21, Gogan et al. disclose a side bracket plate (26) for use in a backrest quick release system, the side bracket plate comprising a first notch (at 48) configured for receiving a bolt head; a second notch (at 50) having an opening and being configured for receiving a bolt head. Gogan et al. disclose a retaining means but do not disclose that the retaining means is a retaining pin. Meng teach a retaining pin (33) positioned adjacent to a second notch (at 21), the retaining pin being movable between a first position wherein the retaining pin prevents a bolt head disposed in the second notch from being removed from the second notch, and a second position wherein the retaining pin does not prevent removal of the bolt head. Retaining pins are a well known method of retaining tubular members in a bracket. Therefore it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Gogan et al. to have the slidable retaining means taught by Meng because retaining pins are a well known method for retaining tubular members in a bracket.

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Referring to claim 22, Meng teaches wherein the retaining pin (33) is spring loaded (at 35).

Referring to claim 23, Meng teaches comprising a handle (34) attached to the retaining pin (33) for selectively moving the retaining pin between the first and second positions.

2. Claims 1,6-10,12-16, 21, and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seibel in view of Meng (734).

Seibel discloses (see Fig 4) a quick release system for mounting a backrest on a motorcycle, the system comprising a side bracket plate (58) having a first notch (at 72) extending inwardly generally horizontally from an end of the side bracket plate, and a second notch (at 76) extending generally upwardly into the side bracket plate from a bottom thereof, the first and second notches being configured to receive a bolt head. Seibel does disclose a retaining means (86) mounted to the side bracket plate for selectively allowing movement of a bolt head into the second notch but does not disclose that it is slidable. Meng teaches (see Fig. 2) a slidable retaining means (33) that mounted to a side bracket plate (16) for selectively allowing movement of a bolt head into a second notch (at 21). Retaining pins are a well known method of retaining tubular members in a bracket. Therefore it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Seibel to have the slidable retaining means taught by Meng because retaining pins are a well known method for retaining tubular members in a bracket.

Referring to claim 6, Seibel discloses a locking means (80).

Referring to claim 7, Seibel discloses the locking means comprises a pin (120).

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Referring to claim 8, Seibel discloses wherein the side bracket plate (58) has a locking hole (see Fig. 5, at 122) and wherein the locking pin (120) extends into the locking hole to prevent movement of a handle.

Referring to claim 9, Seibel discloses wherein the side bracket plate (58) has a locking notch (see Fig. 5, at 122) and wherein the locking pin (120) extends into the locking hole to prevent movement of a handle away from the second notch.

Referring to claim 10, Seibel disclose the locking pin (120) is spring loaded to bias the locking pin into a locking position.

Referring to claim 12, Seibel discloses a locking means (80).

Referring to claim 13, Seibel discloses the locking means comprises a pin (120).

Referring to claim 14, Seibel discloses wherein the side bracket plate (58) has a locking hole (see Fig. 5, at 122) and wherein the locking pin (120) extends into the locking hole to prevent movement of a retaining means.

Referring to claim 15, Seibel, as modified, discloses wherein the side bracket plate (58) has a locking notch (see Fig. 5, at 122) and wherein the locking pin (120) extends into the locking hole to prevent movement of a slidable retaining means away from the second notch.

Referring to claim 16, Seibel disclose the locking pin (120) is spring loaded to bias the locking pin into a locking position.

Referring to claim 21, Seibel discloses a side bracket plate (56) for use in a backrest quick release system, the side bracket plate comprising a first notch (at 72) configured for receiving a bolt head; a second notch (at 76) having an opening and being configured for receiving a bolt head; Seibel discloses a retaining means (86) but does not disclose that the

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retaining means is a retaining pin. Meng teach a retaining pin (33) positioned adjacent to a second notch, the retaining pin being movable between a first position wherein the retaining pin is capable of preventing a bolt head disposed in the second notch from being removed from the second notch, and a second position wherein the retaining pin does not prevent removal of a bolt head. Retaining pins are a well known method of retaining tubular members in a bracket. Therefore it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Seibel to have the retaining means taught by Meng because retaining pins are a well known method for retaining tubular members in a bracket.

Referring to claim 24, Seibel discloses a locking means (80) for selectively preventing movement of a retaining means from a first position to a second position.

Referring to claim 25, Seibel discloses the locking means comprises a pin (120) configured to engage the side bracket plate.

Referring to claim 26, Seibel, as modified, discloses wherein the side bracket plate has a locking hole (at 122) and the locking pin (120) is configured for placement into the locking hole to prevent movement of a retaining pin.

Referring to claim 27, Seibel, as modified, discloses wherein the side bracket plate has a locking notch (at 122) and the locking pin (120) is configured for placement into the locking notch to prevent movement of a retaining pin.

Referring to claim 28, Seibel discloses a quick release system for mounting a back rest on a motorcycle, comprising a side bracket plate (58) having a first forward notch (at 72) generally horizontally from an end of the side bracket plate and a second notch (at 76) disposed adjacent a back end of the side bracket, extending generally upwardly into the side bracket plate from a

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bottom thereof, the first and second notches being configured to receive a bolt head. Seibel disclose a retaining means (86) but does not disclose a slidable retaining pin. Meng teaches (see Fig. 2) a slidable retaining pin (33) mounted to a side bracket plate, rearwardly from a second notch for selectively allowing movement of a bolt head into the second notch, the slidable retaining pin being movable between a first forward position wherein the slidable retaining means prevent advancement of a bolt head into and out of the notch and a second position wherein the retaining pin allow movement of the bolt head into or out of the notch and the retaining pin is a retaining pin is biased into a first position. Retaining pins are a well known method of retaining tubular members in a bracket. Therefore it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Seibel to have the slidable retaining pin taught by Meng because retaining pins are a well known method for retaining tubular members in a bracket.

Referring to claim 29, Seibel, as modified, disclose a locking member (80) for selectively preventing movement of the slidable retaining pin into a second position.

Referring to claim 30, Meng teaches a slidable retaining pin (33) that is attached to a handle (34). Seibel disclose a locking member (120) disposed in a handle (98).

Referring to claim 31, Seibel disclose a locking notch (122) disposed in a side bracket plate and a locking member (120) biased to extend into the locking notch.

3. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gogan et al. ('232) in view of Meng (734) as applied to claim 17 above, and further in view of Albrecht ('405).

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Gogan et al., modified, disclose the quick release system according to claim 17, but does not disclose wherein the bolt head further comprises female threaded portion. Albrecht teach (see Fig. 3) a bolt head (10) that comprises a female threaded portion (18). Albrecht further teach that such bolts are common in the art (see col. 1, lines 54-55). Therefore it would be obvious for one skilled in the art at the time of the invention to modify the bolt disclosed by Gogan et al. to have a female threaded portion as taught by Albrecht because it is common in the art.

4. Claims 21, 24, 28, 29, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melander ('200) in view of Meng (734).

Melander disclose a side bracket plate (11) for use in a backrest quick release system, the side bracket plate comprising a first notch (30) configured for receiving a bolt head; a second notch (32) having an opening and being configured for receiving a bolt head; a retaining means (38) positioned adjacent to the second notch, the retaining means being movable between a first position wherein the retaining means is capable of preventing a bolt head disposed in the second notch from being removed from the second notch, and a second position wherein the retaining means does not prevent removal of the bolt head. Melander does not disclose that the retaining means is a retaining pin. Meng teach (see Fig. 2) a retaining means (33) that is a retaining pin. Retaining pins are a well known method of retaining tubular members in a bracket. Therefore it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Melander to have the slidable retaining means taught by Meng because retaining pins are a well known method for retaining tubular members in a bracket.

Referring to claim 24, Melander discloses a locking means (42) for selectively preventing movement of a retaining means from a first position to a second position.

Referring to claim 28, Melander discloses a quick release system for mounting a back rest on a motorcycle, comprising a side bracket plate (11) having a first forward notch (30) generally horizontally from an end of the side bracket plate and a second notch (32) disposed adjacent a back end of the side bracket, extending generally upwardly into the side bracket plate from a bottom thereof, the first and second notches being configured to receive a bolt head; a slidable retaining means mounted to the side bracket plate, rearwardly from the second notch for selectively allowing movement of a bolt head into the second notch, the slidable retaining means being movable between a first forward position wherein the slidable retaining means prevent advancement of a bolt head into and out of the notch and a second position wherein the retaining pin allow movement of the bolt head into or out of the notch. Melander does not disclose that the retaining means is a retaining pin or that it is biased into the first position. Meng teach (see Fig. 2) a retaining means (33) that is a retaining pin that is biased into a first position. Retaining pins are a well known method of retaining tubular members in a bracket. Therefore it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Melander to have the slidable retaining means taught by Meng because retaining pins are a well known method for retaining tubular members in a bracket.

Referring to claim 29, Melander, as modified, disclose a locking member (42) for selectively preventing movement of the slidable retaining pin into the second position.

Referring to 33, Meng teach a handle (34) which slides along a side bracket plate.

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Referring to claim 34 Melander discloses a quick release system for mounting a back rest on a motorcycle, comprising a side bracket plate capable of being configured for holding a backrest of a motorcycle, the side bracket plate having a first notch (30) and a second notch (32) formed therein each for receiving a bolt head, and a slidable retaining means disposed adjacent at least one of the notches and movable between a first position wherein the slidable retaining means prevents movement of a bolt head out of the at least one of the notches to a second position allowing removal of a bolt head of the least one of the notches so as to selectively prevent a bolt head from being slid out of the on the notches. Melander does not disclose that the retaining means is a retaining pin. Meng teach (see Fig. 2) a retaining means (33) that is a retaining pin. Retaining pins are a well known method of retaining tubular members in a bracket. Therefore it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Melander to have the slidable retaining means taught by Meng because retaining pins are a well known method for retaining tubular members in a bracket.

Referring to claim 35, Melander, as modified, discloses a locking member (42) for selectively preventing movement of a slidable retaining pin into a second position.

Allowable Subject Matter

7. Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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8. The following is a statement of reasons for the indication of allowable subject matter: It would not be obvious to modify Melander to have a guide channel formed in the side bracket plate and have the handle slide along the guide channel.

9. Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: IT would not be obvious to modify Seibel to have the locking means to move perpendicular to the retaining means.

Response to Arguments

10. Applicant's arguments filed 11/29/02 have been fully considered but they are not persuasive.

11. In response to applicant's argument that Meng ('734) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Meng ('734) and Gogan et al. ('232) are both directed to the problem of releasably retaining tubular members in notch in a bracket.

12. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching,

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suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Meng teaches using retaining pins to hold a tubular member in a bracket. Retaining pins are a well known method for preventing movement of tubular members. Therefore it would be obvious to one skilled in retaining tubular members in bracket to use retaining pins. Albrecht teaches bolts heads with female thread would be well known to one skilled in the bolt art.

In response to the argument that the retaining means of Meng ('734) is inconsistent with the teachings of Gogan et al. ('232), although Gogan et al. does say the retaining means can be automatic it also states that the retaining means can be engaged manually (see col. 4, lines 7-10).

In response to the argument that there is no reason to modify the bolt disclosed in Gogan et al. to have a second annular channel. The reason to modify the bolt to have a second annular channel is because duplicating the components of a prior art device is a design consideration within the skill of the art. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

13. Applicant's arguments with respect to claims 8-10, 14-16, and 25-27 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Giovanna M. Collins whose telephone number is 703-306-5707.

The examiner can normally be reached on 7:30-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

gmc
February 21, 2003


Lynne H. Browne
Supervisory Patent Examiner
Technology Center 3670